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TO: United States Patent and  
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SERIAL NO.: 10/506,317

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**571-273-8300**

ATTORNEY DOCKET NO.:

102133-15

DATE:

July 8, 2008

**MESSAGE:**

I hereby certify that the following papers are being transmitted by facsimile to the Patent and Trademark Office on the date shown below:

- Renewed Petition and Statement (5 pages)
- Fax Cover sheet ( 1 page )

By

*Estela Noyola*

Date: July 8, 2008

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## FACSIMILE CERTIFICATION

I hereby certify that this paper and every therein is being faxed  
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Attorney Docket No.: 102133-15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant/Petitioner : GRÄBNER, Peter  
Serial No. : 10/506,317  
(National Phase of PCT/DE03/00808)  
Filed : August 30, 2004  
For : Drive disk for high performance friction pairings  
Art Unit : 2837  
Examiner : To Be Assigned

Mail Stop PCT  
Commissioner for Patents,  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR § 1.137(b)

SIR:

In addition to the Petition filed on June 13, 2008, Petitioner respectfully requests that the Honorable Commissioner consider the enclosed statement by Dr. Klaus Heyner. Dr. Heyner's statement will show that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

According to 37 CFR § 1.137(b), which sets forth the requirements for restoring an

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"A grantable petition pursuant to this paragraph must be accompanied by:

- (1) The reply required ....;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional ....; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20d (d)) required pursuant to paragraph (c) of this section."

Petitioner was advised by the Attorney Advisor of the Office of PCT Legal Administration that requirements (1), (2), and (4) were met by the previously filed Petition. To also fulfill the requirements of item (3), Petitioner submits the statement from Dr. Klaus Heyner.

#### Conclusion

In view of the foregoing, Petitioner submits that all of the requirements of a grantable petition have been met. Accordingly, Petitioners respectfully request that the Honorable Commissioner exercise his power and restore this application to pending status.

Early and favorable action is earnestly solicited.

Respectfully submitted,

NORRIS MCLAUGHLIN & MARCUS, P.A.

By Christa Hildebrand  
Christa Hildebrand  
Reg. No. 34,953  
875 Third Avenue, 18<sup>th</sup> Floor  
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(212) 808-0700

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STATEMENT

I, Dr. Klaus Heyner, declare as follows:

1. I am a German and European Patent Attorney and a partner in the firm of Sperling, Fischer & Heyner in Bannewitz, Germany. I have been practicing for \_\_ years.

I make this Statement in support of the concurrently filed RENEWED PETITION UNDER 37 CFR § 1.137(b) to establish that the entire delay in filing a reply with the USPTO in connection with US 10/506,317 was unintentional.

2. In 2002, my client, applicant Peter Gräbner of Radebeul, Germany entrusted me with the preparation and filing an application for patent in Germany, which application became DE 102 11 196.0, filed on March 8, 2002 and to attend in a timely manner the filing of the international application, as well as entering national stages in designated/elected countries, amongst others, the United States of America.

3. On March 7, 2003, I filed the International Application PCT/DE03/00808 and claimed priority to the above identified German application.

4. Long before the expiration of the 30<sup>th</sup> month, counted from the filing of the DE priority application (September 8, 2004), I entrusted a US colleague, Karl Hormann of Cambridge, MA with the filing and prosecution of the US National Stage of PCT/DE03/00808.

5. Mr. Hormann attended the filing of the US National Phase application on August 30, 2004, together with an Oath/Declaration. The application was afforded US S.N. 10/506,317.

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6. On September 15, 2004, I received correspondence via mail from Mr. Hormann, informing me about the filing of the application and the Serial Number.

7. The communication identified in item 6. was the last communication I ever received from Mr. Hormann. Thereafter, none of my inquiries via fax, mail or telephone were answered.

8. After communications with my client, that is on March 27, 2006, I instructed Mr. Hormann that due to his failure to respond to any of my inquiries, he should transfer the prosecution file pertaining to S.N. 10/506,317 to another colleague, Christa Hildebrand of Norris McLaughlin & Marcus, PA in New York.

9. Subsequent to such request, I was informed by Ms. Hildebrand that the physical file was never transferred to her office.

10. With the cooperation of my client, I provided Ms. Hildebrand with a Revocation of Power of Attorney and New Power of Attorney for filing in the US PTO, which filing was done on April 20, 2006.

8. After entry of such new power, Christa Hildebrand provided me with the status of the above identified application. I learned that the application was abandoned.


9. I confirm that the abandonment was not intended and the entire delay in filing documents with the PTO or paying fees to the USPTO and to timely prosecute the US 10/506,317 application was unintentional. My client entrusted me with the control over the filing and prosecution of the application and neither my client nor I intended that the application would be abandoned.

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THUS, the entire delay in filing the required reply from any due date for the  
reply until the filing of a grantable petition was unintentional.

Dated: July 07, 2008

  
Dr. Klaus Heyner

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